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National Mortgage Association,
ReconTrust Company, N.A., Mortgage
Electronic Registration Systems, Inc.,
and Bank of America, N.A., as successor
by merger to Countrywide Bank, FSB
and BAC Home Loans Servicing, LP

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
AT SPOKANE

GREGORY A. BEADLES,

Plaintiff,

v.

RECONTRUST COMPANY, N.A.,
MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC., A
Delaware Corp., AMERICAN
MORTGAGE NETWORK, INC., A
Delaware Corp., COUNTRYWIDE
BANK, FSB; DOES 1-10 FEDERAL
NATIONAL MORTGAGE
ASSOCIATION,

Defendants.

No. CV-12-378-JLQ

**DEFENDANTS' ANSWER TO
PLAINTIFF'S FIRST
AMENDED COMPLAINT FOR
BREACH OF DUTY TO ACT
AS NEUTRAL THIRD PARTY;
NEGLIGENT AND/OR
INTENTIONAL;
MISREPRESENTATION;
VIOLATION OF CONSUMER
PROTECTION ACT**

Defendants Federal National Mortgage Association ("Fannie Mae"),
ReconTrust Company, N.A. ("ReconTrust"), Mortgage Electronic Registration

DEFENDANTS' ANSWER TO PLAINTIFF'S
FIRST AMENDED COMPLAINT
NO. CV-12-378-JLQ - 1

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1 Systems, Inc. ("MERS"), and Bank of America, N.A., successor in interest by
2 merger to Countrywide Bank, FSB and BAC Home Loans Servicing, LP
3 ("BACHLS"), ("BANA") (collectively, "Defendants") hereby answer the First
4 Amended Complaint ("Amended Complaint") of Plaintiff Gregory A. Beadles
5 ("Plaintiff"). Unless expressly admitted herein, Defendants lack sufficient
6 information or knowledge to admit or deny the allegations of the Amended
7 Complaint and, on that basis, deny the allegations.

8 PARTIES

9 1. Answering Paragraph 1.1 of the Amended Complaint, Defendants
10 lack sufficient information to admit or deny the allegations contained therein,
11 and on that basis, deny the allegations.

12 2. Answering Paragraph 1.2 of the Amended Complaint, Defendants
13 admit that Plaintiff executed two deeds of trust secured by real property located
14 in Spokane County, Washington, and that he borrowed funds to purchase the
15 subject property. As to the remainder of the allegations, Defendants lack
16 sufficient information to admit or deny the allegations contained therein, and on
17 that basis, deny the allegations.

18 3. Answering the first Paragraph 1.3 of the Amended Complaint (page
19 2, lines 4-12), Defendants admit that ReconTrust Company, N.A. is a
20 wholly-owned subsidiary of BANA, which is a wholly-owned subsidiary of
21 BANA Holding Corp., which is a wholly-owned subsidiary of BAC North
22 America Holding Company, which is a wholly-owned subsidiary of NB
23 Holdings Corp., which is a wholly-owned subsidiary of Bank of America
24 Corporation. Defendants further admit that ReconTrust was appointed as a
25 Successor Trustee of a deed of trust secured by the Property referenced in the
26 Amended Complaint and conducted a non-judicial trustee's sale of the Property
27

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1 on July 1, 2011. Unless so specifically admitted, the allegations of Paragraph
2 1.3 are denied.

3 4. Answering the second Paragraph 1.3 of the Amended Complaint
4 (page 2, lines 13-19), Defendants admit that MERS is a Delaware corporation.
5 To the extent Paragraph 1.3 refers to a Deed of Trust, that document speaks for
6 itself and is the best evidence of its contents. To the extent the allegations
7 contained in the second Paragraph 1.3 contradict the document, they are denied.
8 As to the remainder of the allegations, the allegations state legal conclusions to
9 which no response is required. The remaining portion of second Paragraph 1.3
10 contains legal conclusions, which require no response. To the extent a response
11 is required, Defendants lack sufficient information to admit or deny the
12 allegations contained therein, and on that basis, deny the allegations.

13 5. Answering Paragraph 1.4 of the Amended Complaint, Defendants
14 admit that BACHLS was a subsidiary of BANA, which merged into BANA on
15 July 1, 2011. Defendants further admit that MERS executed a written
16 assignment in favor of BACHLS in 2010, and that written document speaks for
17 itself and is the best evidence of its contents. To the extent the allegations
18 contained in Paragraph 1.4 contradict the document, they are denied. Unless so
19 specifically admitted, the allegations of Paragraph 1.4 are denied.

20 6. Answering the first Paragraph 1.5 of the Amended Complaint (page
21 2, line 23 through page 3, line 2), Defendants admit that Plaintiff executed a
22 deed of trust on the Property in 2007 (a copy of which is attached to the
23 Amended Complaint as Exhibit 2), and borrowed money accordingly. The
24 referenced document speaks for itself and is the best evidence of its contents.
25 To the extent the allegations contained in Paragraph 1.5 contradict the
26 document, they are denied. Defendants further admit that BANA is the
27

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1 successor to this Deed of Trust by merger to Countrywide Bank, FSB. As to the
2 remainder of the allegations, Defendants lack sufficient information to admit or
3 deny the allegations contained therein, and on that basis, deny the allegations.

4 7. Answering the first Paragraph 1.6 of the Amended Complaint (page
5 3, lines 3-15), Defendants admit that Fannie Mae is a federally chartered
6 corporation organized under the laws of the United States and conducts business
7 in the state of Washington. Defendants admit that Fannie Mae purchased the
8 subject mortgage at the July 1, 2011 trustee's sale. The remaining allegations
9 consist of legal conclusions, and require no answer. To the extent a response is
10 required, Defendants lack sufficient information to admit or deny the allegations
11 contained therein as presently phrased, and on that basis, deny the allegations.

12 8. Answering the second Paragraph 1.5 of the Amended Complaint
13 (page 3, lines 16-20), Defendants lack sufficient information to admit or deny
14 the allegations contained therein, and on that basis, deny the allegations.

15 9. Answering the second Paragraph 1.6 of the Amended Complaint
16 (page 3, lines 21-22), Defendants admit the allegations as to the named
17 Defendants and lack sufficient information to admit or deny the allegations
18 contained therein as to the Plaintiff and the Doe Defendants, and on that basis,
19 deny the allegations.

20 JURISDICTION AND VENUE

21 10. Defendants admit the allegations in Paragraph 2.1 of the Amended
22 Complaint.

23 ALLEGED FACTS

24 11. Answering the first Paragraph 3.1 of the Amended Complaint (page
25 4, lines 4-9), Defendants lack sufficient information to admit or deny the
26 allegations contained therein, and on that basis, deny the allegations.

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12. Answering the first Paragraph 3.2 of the Amended Complaint (page 4, lines 10-16), Defendants admit that on or about August 1, 2006, Plaintiff executed a promissory note and a deed of trust on the Property which was recorded under Spokane County recording number 5414465 (a copy of which is attached to the Amended Complaint as Exhibit 1), and borrowed money accordingly. Defendants admit that the promissory note and deed of trust are written documents. The documents are the best evidence of their contents. To the extent the allegations of Paragraph 3.2 contradict the writing, they are denied. As to the remainder of the allegations, Defendants lack sufficient information to admit or deny the allegations contained therein, and on that basis, deny the allegations.

13. Answering the first Paragraph 3.3 of the Amended Complaint (page 4, lines 17-25), Defendants admit that on or about September 10, 2007 Plaintiff executed a promissory note and a deed of trust on the Property which was recorded under Spokane County recording number 5585539 (a copy of which is attached to the Amended Complaint as Exhibit 2), and borrowed money accordingly. Defendants admit that the promissory note and deed of trust are written documents. The documents are the best evidence of their contents. To the extent the allegations contained in Paragraph 3.3 contradict the document, they are denied. As to the remainder of the allegations, Defendants lack sufficient information to admit or deny the allegations contained therein, and on that basis, deny the allegations.

14. Answering the first Paragraph 3.4 of the Amended Complaint (page 5, lines 1-10), Defendants admit that Plaintiff communicated with BACHLS regarding a Home Affordable Modification Program ("HAMP") application. Defendants further admit that a Notice of Trustee's Sale on the Property was

1 recorded on March 29, 2011, setting a sale date of July 1, 2011. As to the
2 remaining allegations, Defendants lack sufficient information to admit or deny
3 the allegations contained therein as presently phrased, and on that basis, deny
4 the allegations.

5 15. Answering the first Paragraph 3.5 of the Amended Complaint (page
6 5, lines 11-15), Defendants admit that Plaintiff communicated with BACHLS
7 prior to the Trustee's Sale. As to the remaining allegations, Defendants lack
8 sufficient information to admit or deny the allegations contained therein as
9 presently phrased, and on that basis, deny the allegations.

10 16. Answering the first Paragraph 3.6 of the Amended Complaint (page
11 5, lines 16-20), Defendants admit that the Trustee's sale was not continued and
12 that Plaintiff communicated with BACHLS prior to the Trustee's sale. As to the
13 remaining allegations, Defendants lack sufficient information to admit or deny
14 the allegations contained therein as presently phrased, and on that basis, deny
15 the allegations.

16 17. Answering the first Paragraph 3.7 of the Amended Complaint (page
17 5, line 21 through page 6, line 6), Defendants admit that the Trustee's sale was
18 held on July 1, 2011 and that Plaintiff communicated with BACHLS following
19 the Trustee's sale. As to the remaining allegations, Defendants lack sufficient
20 information to admit or deny the allegations contained therein as presently
21 phrased, and on that basis, deny the allegations.

22 18. Answering the first Paragraph 3.8 of the Amended Complaint (page
23 6, lines 7-9), Defendants admit BACHLS executed and recorded under Spokane
24 County recording number 5963661 a Substitution of Trustee on December 22,
25 2012 (a copy of which is attached to the Amended Complaint as Exhibit 3).
26 Defendants admit that the Substitution of Trustee is a written document. The
27

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1 document itself is the best evidence of its contents. To the extent the allegations
2 of Paragraph 3.8 contradict the document, they are denied.

3 19. Answering the second Paragraph 3.1 of the Amended Complaint
4 (page 6, lines 10-13), Defendants admit MERS executed and recorded under
5 Spokane County recording number 5963662 an Assignment of the deed of trust
6 on December 22, 2010 (a copy of which is attached to the Amended Complaint
7 as Exhibit 4). Defendants admit that the Assignment is a written document. The
8 document itself is the best evidence of its contents. To the extent the allegations
9 of Paragraph 3.1 contradict the writing, they are denied.

10 20. Answering the second Paragraph 3.2 of the Amended Complaint
11 (page 6, lines 14-16), Defendants admit ReconTrust recorded under Spokane
12 County recoding number 5989383 a Notice of Trustee Sale of the Property set
13 for July 1, 2011 (a copy of which is attached to the Amended Complaint as
14 Exhibit 5). Defendants admit that the Notice of Trustee's Sale is a written
15 document. The document itself is the best evidence of its contents. To the extent
16 the allegations of Paragraph 3.2 contradict the writing, they are denied.

17 21. Answering the second Paragraph 3.3 of the Amended Complaint
18 (page 6, lines 17-19), Defendants admit ReconTrust conducted a non-judicial
19 Trustee Sale of the Property on July 1, 2011 and that Fannie Mae purchased the
20 property at the July 1, 2011 sale. Defendants further state that ReconTrust was
21 fully authorized to conduct the sale and did so in complete and/or substantial
22 compliance with all applicable laws. Except as so admitted, the allegations are
23 denied.

24 22. Answering the second Paragraph 3.4 of the Amended Complaint
25 (page 6, lines 20-24), Defendants admit BACHLS recorded an Assignment of
26 the Deed of Trust on July 19, 2011 under Spokane County recording number
27

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1 6014333 (a copy of which is attached to the Amended Complaint as Exhibit 6).
2 Defendants admit that the Assignment is a written document. The document
3 itself is the best evidence of its contents. To the extent the allegations of
4 Paragraph 3.4 contradict the writing, they are denied. Except as so admitted, the
5 allegations are denied.

6 23. Answering the second Paragraph 3.5 of the Amended Complaint
7 (page 7, lines 1-3), Defendants admit ReconTrust recorded a Trustee's Deed
8 conveying the Property from BACHLS to Fannie Mae on July 19, 2011 under
9 Spokane County recording number 6014334 (a copy of which is attached to the
10 Amended Complaint as Exhibit 7). Defendants admit that the Trustee's Deed is
11 a written document. The document itself is the best evidence of its contents. To
12 the extent the allegations of Paragraph 3.5 contradict the writing, they are
13 denied.

14 24. Answering the second Paragraph 3.6 of the Amended Complaint
15 (page 7, lines 4-8), Defendants admit that the Trustee's Deed is a written
16 document. The document itself is the best evidence of its contents. To the
17 extent the allegations of Paragraph 3.6 contradict the writing, they are denied.

18 25. Answering the second Paragraph 3.7 of the Amended Complaint
19 (page 7, lines 9-10), Paragraph 3.7 refers to a written document, a Trustee's
20 Deed. The document itself is the best evidence of its contents. To the extent
21 the allegations contained in Paragraph 3.7 contradict the writing, they are
22 denied. As to the remaining allegations, Defendants lack sufficient information
23 to admit or deny the allegations contained therein as presently phrased, and on
24 that basis, deny the allegations.

25 26. Answering the second Paragraph 3.8 of the Amended Complaint
26 (page 7, lines 11-14), Paragraph 3.8 refers to a written document. The document
27

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1 itself is the best evidence of its contents. To the extent the allegations in
2 Paragraph 3.8 contradict the writing, they are denied. As to the remaining
3 allegations, Defendants lack sufficient information to admit or deny the
4 allegations contained therein as presently phrased, and on that basis, deny the
5 allegations.

6 27. Answering Paragraph 3.9 of the Amended Complaint, the
7 allegations state conclusions of law to which no response is required. To the
8 extent a response is required, the allegations in Paragraph 3.9 are denied.

9 28. Answering Paragraph 3.9.1 of the Amended Complaint, the
10 referenced document is the best evidence of its contents. To the extent the
11 allegations in Paragraph 3.9.1 contradict the writing, they are denied. As to the
12 remaining allegations, the allegations state conclusions of law to which no
13 response is required. To the extent a response is required, the allegations in
14 Paragraph 3.9.1 are denied.

15 29. Answering Paragraph 3.9.2 of the Amended Complaint, the
16 allegations state conclusions of law to which no response is required. To the
17 extent a response is required, the allegations in Paragraph 3.9.2 are denied.

18 30. Answering Paragraph 3.9.3 of the Amended Complaint, the
19 allegations state conclusions of law to which no response is required. To the
20 extent a response is required, the allegations in Paragraph 3.9.3 are denied.

21 31. Answering Paragraph 3.10 of the Amended Complaint, the
22 allegations state conclusions of law to which no response is required. To the
23 extent a response is required, the allegations in Paragraph 3.10 are denied.

24 32. Answering Paragraph 3.11 of the Amended Complaint, the
25 allegations state conclusions of law to which no response is required. To the
26 extent a response is required, the allegations in Paragraph 3.11 are denied.

27
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1 33. Answering Paragraph 3.12 of the Amended Complaint, the
2 allegations state conclusions of law to which no response is required. To the
3 extent a response is required, Defendants admit that ReconTrust owed statutory
4 duties, but the allegations in Paragraph 3.12 are otherwise denied.

5 34. Answering Paragraph 3.13 of the Amended Complaint, Defendants
6 deny the allegations contained therein.

7 35. Answering Paragraph 3.14 of the Amended Complaint, Defendants
8 lack sufficient information to admit or deny the allegations contained therein as
9 presently phrased, and on that basis, deny the allegations. As to the remaining
10 allegations, the allegations state conclusions of law to which no response is
11 required. To the extent a response is required, the allegations in Paragraph 3.14
12 are denied

13 36. Answering Paragraph 3.15 of the Amended Complaint, Defendants
14 deny the allegations contained therein.

15 37. Answering Paragraph 3.15.1 of the Amended Complaint, the
16 allegations state conclusions of law to which no response is required. To the
17 extent a response is required, the allegations in Paragraph 3.15.1 are denied.

18 38. Answering Paragraph 3.15.2 of the Amended Complaint, Paragraph
19 3.15.2 refers to a written document, a Notice of Default. That document itself is
20 the best evidence of its contents. To the extent the allegations contained in
21 Paragraph 3.15.2 contradict the writing, they are denied. As to the remainder of
22 the allegations, the allegations state conclusions of law to which no response is
23 required. To the extent a response is required, the allegations in Paragraph
24 3.15.2 are denied.

25 39. Answering Paragraph 3.15.3 of the Amended Complaint, Paragraph
26 3.15.3 refers to written documents. Those documents are the best evidence of
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1 their contents. To the extent the allegations contained in Paragraph 3.15.3
2 contradict the writings, they are denied. As to the remainder of the allegations,
3 the allegations state conclusions of law to which no response is required. To the
4 extent a response is required, the allegations in Paragraph 3.15.3 are denied.

5 40. Answering Paragraph 3.15.4 of the Amended Complaint, Paragraph
6 3.15.4 refers to a written document, a Notice of Trustee's Sale. The document
7 itself is the best evidence of its contents. To the extent the allegations contained
8 in Paragraph 3.15.4 contradict the writing, they are denied. As to the remainder
9 of the allegations, the allegations state conclusions of law to which no response
10 is required. To the extent a response is required, the allegations in Paragraph
11 3.15.4 are denied.

12 41. Answering Paragraph 3.15.5 of the Amended Complaint, Paragraph
13 3.15.5 refers to written documents. Those documents are the best evidence of
14 their contents. To the extent the allegations contained in Paragraph 3.15.5
15 contradict the writings, they are denied. As to the remainder of the allegations,
16 the allegations state conclusions of law to which no response is required. To the
17 extent a response is required, the allegations in Paragraph 3.15.5 are denied.

18 42. Answering Paragraph 3.15.6 of the Amended Complaint, the
19 allegations state conclusions of law to which no response is required. To the
20 extent a response is required, the allegations in Paragraph 3.15.6 are denied.

21 43. Answering Paragraph 3.16 of the Amended Complaint, Defendants
22 deny the allegations contained therein.

23 44. Answering Paragraph 3.17 of the Amended Complaint, Defendants
24 deny the allegations contained therein.

25 45. Answering Paragraph 3.18 of the Amended Complaint, Defendants
26 deny the allegations contained therein.

27
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1 46. Answering Paragraph 3.18.1 of the Amended Complaint, the
2 allegations state conclusions of law to which no response is required. To the
3 extent a response is required, the allegations in Paragraph 3.18.1 are denied.

4 47. Answering Paragraph 3.18.2 of the Amended Complaint, Paragraph
5 3.18.2 refers to a written document, a Notice of Default. That document itself is
6 the best evidence of its contents. To the extent the allegations contained in
7 Paragraph 3.18.2 contradict the writing, they are denied. As to the remainder of
8 the allegations, the allegations state conclusions of law to which no response is
9 required. To the extent a response is required, the allegations in Paragraph
10 3.18.2 are denied.

11 48. Answering Paragraph 3.18.3 of the Amended Complaint, Paragraph
12 3.18.3 refers to a written document. The document itself is the best evidence of
13 its contents. To the extent the allegations contained in Paragraph 3.18.3
14 contradict the writing, they are denied. As to the remainder of the allegations,
15 the allegations state conclusions of law to which no response is required. To the
16 extent a response is required, the allegations in Paragraph 3.18.3 are denied.

17 49. Answering Paragraph 3.18.4 of the Amended Complaint, Paragraph
18 3.18.4 refers to a written document, a Notice of Trustee's Sale. The document
19 itself is the best evidence of its contents. To the extent the allegations contained
20 in Paragraph 3.18.4 contradict the writing, they are denied. As to the remainder
21 of the allegations, the allegations state conclusions of law to which no response
22 is required. To the extent a response is required, the allegations in Paragraph
23 3.18.4 are denied.

24 50. Answering Paragraph 3.18.5 of the Amended Complaint, Paragraph
25 3.18.5 refers to a written document, a Trustee's Deed. That document itself is
26 the best evidence of its contents. To the extent the allegations contained in
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1 Paragraph 3.18.5 contradict the writing, they are denied. As to the remainder of
2 the allegations, the allegations state conclusions of law to which no response is
3 required. To the extent a response is required, the allegations in Paragraph
4 3.18.5 are denied.

5 51. Answering Paragraph 3.18.6 of the Amended Complaint, Paragraph
6 3.18.6 refers to a written document, a Trustee's Deed. That document itself is
7 the best evidence of its contents. To the extent the allegations contained in
8 Paragraph 3.18.6 contradict the writing, they are denied. As to the remainder of
9 the allegations, the allegations state conclusions of law to which no response is
10 required. To the extent a response is required, the allegations in Paragraph
11 3.18.6 are denied.

12 52. Answering Paragraph 3.19 of the Amended Complaint, the
13 allegations state conclusions of law to which no response is required. To the
14 extent a response is required, the allegations in Paragraph 3.19 are denied.

15 53. Answering Paragraph 3.20 of the Amended Complaint, the
16 allegations state conclusions of law to which no response is required. To the
17 extent a response is required, the allegations in Paragraph 3.20 are denied.

18 54. Answering Paragraph 3.21 of the Amended Complaint, Paragraph
19 3.21 refers to a written document, a Trustee's Deed. The document itself is the
20 best evidence of its contents. To the extent the allegations contained in
21 Paragraph 3.21 contradict the writing, they are denied. As to the remainder of
22 the allegations, the allegations state legal conclusions to which no response is
23 required. To the extent a response is required, the allegations in Paragraph 3.21
24 are denied.

25 55. Answering Paragraph 3.22 of the Amended Complaint, Paragraph
26 3.22 refers to a written document, a Trustee's Deed. The document itself is the
27

1 best evidence of its contents. To the extent the allegations contained in
2 Paragraph 3.22 contradict the writing, they are denied. As to the remainder of
3 the allegations, the allegations state legal conclusions to which no response is
4 required. To the extent a response is required, the allegations in Paragraph 3.22
5 are denied.

6 56. Answering Paragraph 3.23 of the Amended Complaint, Paragraph
7 3.23 refers to a written document, a Trustee's Deed, that writing speaks for itself
8 and the writing is the best evidence of what is contained therein. To the extent
9 the allegations contained in Paragraph 3.23 contradict the writing, they are
10 denied. As to the remainder of the allegations, the allegations state legal
11 conclusions to which no response is required. To the extent a response is
12 required, the allegations in Paragraph 3.23 are denied.

13 57. Answering Paragraph 3.24 of the Amended Complaint, the
14 allegations state legal conclusions to which no response is required. To the
15 extent a response is required, the allegations in Paragraph 3.24 are denied.

16 58. Answering Paragraph 3.25 of the Amended Complaint, the
17 allegations state legal conclusions to which no response is required. To the
18 extent a response is required, the allegations in Paragraph 3.25 are denied.

19 59. Answering Paragraph 3.26 of the Amended Complaint, the
20 allegations state legal conclusions to which no response is required. To the
21 extent a response is required, the allegations in Paragraph 3.26 are denied.

22 60. Answering Paragraph 3.27 of the Amended Complaint, Paragraph
23 3.27 refers to a written document, a Trustee's Deed. The document itself is the
24 best evidence of its contents. To the extent the allegations contained in
25 Paragraph 3.27 contradict the writing, they are denied. As to the remainder of
26 the allegations, the allegations state legal conclusions to which no response is
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1 required. To the extent a response is required, the allegations in Paragraph 3.27
2 are denied.

3 CAUSES OF ACTION¹

4 Second Cause of Action

5 **Alleged Breach of Duty to Act in Good Faith as a Neutral Third Party** 6 **Against ReconTrust**

7 61. Answering Paragraph 5.1 of the Amended Complaint, Defendants
8 incorporate by reference their answers to each and every preceding paragraph, as
9 set forth in full herein.

10 62. Answering Paragraph 5.2 of the Amended Complaint, Defendants
11 deny the allegations contained therein.

12 63. Answering Paragraph 5.3 of the Amended Complaint, Defendants
13 deny the allegations therein.

14 Third Cause of Action

15 **Alleged Negligent and/or Intentional Misrepresentation Against** 16 **MERS, BACHLS and ReconTrust**

17 64. Answering Paragraph 6.1 of the Amended Complaint, Defendants
18 incorporate by reference their answers to each and every preceding paragraph, as
19 set forth in full herein.

20 65. Answering Paragraph 6.2 of the Amended Complaint, the
21 allegations state conclusions or recitations of law to which no response is

22 ¹ Defendants do not answer the allegations in Plaintiff's First (Wrongful
23 Foreclosure), Sixth (Wrongful Foreclosure), Seventh (Quiet Title), and Eighth
24 (Slander of Title) causes of action of the Amended Complaint because these
25 allegations were dismissed by the Court in this Court's October 15, 2012 Order
26 RE: Motion to Dismiss ("Order"). ECF No. 21 at 9:8-11.

1 required. To the extent a response is required, the allegations contained in
2 Paragraph 6.2 are denied.

3 66. Answering Paragraph 6.3 of the Amended Complaint, the
4 allegations state conclusions or recitations of law to which no response is
5 required. To the extent a response is required, the allegations in Paragraph 6.3
6 are denied.

7 67. Answering Paragraph 6.4 of the Amended Complaint, the
8 allegations state conclusions or recitations of law to which no response is
9 required. To the extent a response is required, the allegations in Paragraph 6.4
10 are denied.

11 68. Answering Paragraph 6.5 of the Amended Complaint, the
12 allegations state conclusions or recitations of law to which no response is
13 required. To the extent a response is required, the allegations in Paragraph 6.5
14 are denied.

15 69. Answering Paragraph 6.6 of the Amended Complaint, the
16 allegations state conclusions or recitations of law to which no response is
17 required. To the extent a response is required, the allegations in Paragraph 6.6
18 are denied.

19 70. Answering Paragraph 6.7 of the Amended Complaint, the
20 allegations state conclusions or recitations of law to which no response is
21 required. To the extent a response is required, Defendants admit that the
22 Property was conveyed to Fannie Mae following the Trustee's Sale. Except as
23 so admitted, the allegations are denied.

24 71. Answering Paragraph 6.8 of the Amended Complaint, Defendants
25 deny the allegations therein.

26 72. Answering Paragraph 6.9 of the Amended Complaint, Defendants
27

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1 lack sufficient information to admit or deny the allegations contained therein,
2 and on that basis, deny the allegations.

3 73. Answering Paragraph 6.10 of the Amended Complaint, Defendants
4 deny that they made any misrepresentations. By way of further answer, the
5 allegations state conclusions or recitations of law to which no response is
6 required. To the extent a response is required, the allegations are denied. As to
7 the remainder of the allegations, Defendants lack sufficient information to admit
8 or deny the allegations contained therein, and on that basis, deny the allegations.

9 74. Answering Paragraph 6.11 of the Amended Complaint, Defendants
10 deny that they made any misrepresentations. As to the remainder of the
11 allegations, Defendants lack sufficient information to admit or deny the
12 allegations contained therein, and on that basis, deny the allegations.

13 75. Answering Paragraph 6.12 of the Amended Complaint, Defendants
14 deny the allegations therein.

15 76. Answering Paragraph 6.13 of the Amended Complaint, Defendants
16 deny the allegations therein.

17 77. Answering Paragraph 6.14 of the Amended Complaint, Defendants
18 deny the allegations therein.

19 78. Answering Paragraph 6.15 of the Amended Complaint, Defendants
20 deny the allegations therein.

21 **Fourth Cause of Action**
22 **Alleged Negligent and/or Intentional Misrepresentation**
23 **Against BACHLS**

24 79. Answering Paragraph 7.1 of the Amended Complaint, Defendants
25 incorporate by reference their answers to each and every preceding paragraph, as
26 set forth in full herein.

27 80. Answering Paragraph 7.2 of the Amended Complaint, the

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1 allegations state conclusions or recitations of law to which no response is
2 required. To the extent a response is required, Defendants deny that they
3 breached any duty of care owed to Plaintiff.

4 81. Answering Paragraph 7.3 of the Amended Complaint, Defendants
5 admit that Plaintiff communicated with BACHLS regarding a HAMP
6 application. As to the remaining allegations, Defendants lack sufficient
7 information to admit or deny the allegations contained therein as presently
8 phrased, and on that basis, deny the allegations.

9 82. Answering Paragraph 7.4 of the Amended Complaint, Defendants
10 lack sufficient information to admit or deny the allegations contained therein as
11 presently phrased, and on that basis, deny the allegations.

12 83. Answering Paragraph 7.5 of the Amended Complaint, Defendants
13 deny the allegations therein.

14 84. Answering Paragraph 7.6 of the Amended Complaint, the
15 allegations state conclusions or recitations of law to which no response is
16 required. To the extent a response is required, Defendants deny Plaintiff is
17 entitled to damages or any other relief. As to the remaining allegations,
18 Defendants lack sufficient information to admit or deny the allegations
19 contained therein, and on that basis, deny the allegations.

20
21 **Fifth Cause of Action**

22 **Alleged Violation of the Washington State Consumer Protection Act**
23 **(RCW 19.86 et seq.) Against BACHLS, ReconTrust, Fannie Mae, and**
24 **MERS.**

25 85. Answering Paragraph 8.1 of the Amended Complaint, Defendants
26 incorporate by reference their answers to each and every preceding paragraph, as
27 set forth in full herein.

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1 86. Answering Paragraph 8.2 of the Amended Complaint, Defendants
2 deny the allegations therein.

3 87. Answering Paragraph 8.3 of the Amended Complaint, Defendants
4 deny the allegations therein.

5 88. Answering Paragraph 8.4 of the Amended Complaint, Defendants
6 deny the allegations therein.

7 89. Answering Paragraph 8.4.1 of the Amended Complaint, the
8 allegations state conclusions or recitations of law to which no response is
9 required. To the extent a response is required, the allegations in Paragraph 8.4.1
10 are denied.

11 90. Answering Paragraph 8.4.2 of the Amended Complaint, the
12 allegations state conclusions or recitations of law to which no response is
13 required. To the extent a response is required, the allegations in Paragraph 8.4.2
14 are denied.

15 91. Answering Paragraph 8.4.3 of the Amended Complaint, Defendants
16 lack sufficient information to admit or deny the allegations contained in the first
17 sentence therein as presently phrased, and on that basis, deny the allegations.
18 Further answering Paragraph 8.4.3, the allegations in the second sentence state
19 conclusions or recitations of law to which no response is required. To the extent
20 a response is required, the allegations in Paragraph 8.4.3 are denied.

21 92. Answering Paragraph 8.4.4 of the Amended Complaint, Defendants
22 deny the allegations therein.

23 93. Answering Paragraph 8.5 of the Amended Complaint, Defendants
24 deny the allegations therein.

25 94. Answering Paragraph 8.5.1 of the Amended Complaint, the
26 allegations state conclusions or recitations of law to which no response is
27

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1 required. To the extent a response is required, the allegations in Paragraph 8.5.1
2 are denied.

3 95. Answering Paragraph 8.5.2 of the Amended Complaint, the
4 allegations state conclusions or recitations of law to which no response is
5 required. To the extent a response is required, the allegations in Paragraph 8.5.2
6 are denied.

7 96. Answering Paragraph 8.5.3 of the Amended Complaint, Defendants
8 deny the allegations therein.

9 97. Answering Paragraph 8.6 of the Amended Complaint, the
10 allegations state conclusions or recitations of law to which no response is
11 required. To the extent a response is required, the allegations in Paragraph 8.6
12 are denied.

13 98. Answering Paragraph 8.6.1 of the Amended Complaint, the
14 allegations state conclusions or recitations of law to which no response is
15 required. To the extent a response is required, the allegations in Paragraph 8.6.1
16 are denied.

17 99. Answering Paragraph 8.6.2 of the Amended Complaint, the
18 allegations state conclusions or recitations of law to which no response is
19 required. To the extent a response is required, the allegations in Paragraph 8.6.2
20 are denied.

21 100. Answering Paragraph 8.6.3 of the Amended Complaint, Defendants
22 deny the allegations therein.

23 101. Answering Paragraph 8.6.4 of the Amended Complaint, the
24 allegations state conclusions or recitations of law to which no response is
25 required. To the extent a response is required, the allegations in Paragraph 8.6.4
26 are denied.

27
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1 102. Answering Paragraph 8.7 of the Amended Complaint, the
2 allegations state conclusions or recitations of law to which no response is
3 required. To the extent a response is required, the allegations in Paragraph 8.7
4 are denied

5 103. Answering Paragraph 8.8 of the Amended Complaint, the
6 allegations state conclusions or recitations of law to which no response is
7 required. To the extent a response is required, the allegations in Paragraph 8.8
8 are denied.

9 104. Answering Paragraph 8.9 of the Amended Complaint, the
10 allegations state conclusions or recitations of law to which no response is
11 required. To the extent a response is required, the allegations in Paragraph 8.9
12 are denied.

13 105. Answering Paragraph 8.10 of the Amended Complaint, Paragraph
14 8.10 refers to a written document, a Notice of Trustee's Sale, which is the best
15 evidence of its contents. To the extent the allegations contained in Paragraph
16 8.10 contradict the writing, they are denied. As to the remaining allegations, the
17 allegations state conclusions or recitations of law to which no response is
18 required. To the extent a response is required, the allegations in Paragraph 8.10
19 are denied.

20 106. Answering Paragraph 8.11 of the Amended Complaint, the
21 allegations state conclusions or recitations of law to which no response is
22 required. To the extent a response is required, the allegations in Paragraph 8.11
23 are denied.

24 107. Answering Paragraph 8.12 of the Amended Complaint, Defendants
25 deny the allegations therein.
26
27

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PRAYER FOR RELIEF

108. Defendants deny Plaintiff is entitled to the relief sought, or any other relief.²

AFFIRMATIVE DEFENSES

Defendants hereby allege the following separate and distinct defenses and affirmative defenses without conceding that Defendants necessarily bear the burden of proof or persuasion:

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

The Amended Complaint, and each claim therein, fails to set forth facts sufficient to state a claim against Defendants.

SECOND AFFIRMATIVE DEFENSE

(Contribution)

Without admitting any of the allegations in the Amended Complaint, Defendants allege that the injuries and/or damages alleged by Plaintiff were proximately caused by, occurred, and/or were contributed to by Plaintiff's own acts or failures to act.

² Plaintiff's Amended Complaint continues to seek relief in the form of quiet title to the Property in conflict with this Court's October 15, 2012 Order. *See* Order, ECF No. 21, 8:1-18; Compl., ¶¶ 12.1, 12.2

1 **THIRD AFFIRMATIVE DEFENSE**

2 (Fault of Plaintiff)

3 If Plaintiff suffered or sustained any loss, injury, damage or detriment, the
4 same was directly and proximately caused and contributed to by the breach,
5 conduct, acts, omissions, activities, carelessness, recklessness, negligence,
6 and/or intentional misconduct of Plaintiff, and not by Defendants.
7

8 **FOURTH AFFIRMATIVE DEFENSE**

9 (Lack of Actual Damages)

10 Plaintiff's claim is barred, in whole or in part, because he suffered no
11 actual damages as a result of the actions alleged in the Complaint.
12

13 **FIFTH AFFIRMATIVE DEFENSE**

14 (Damages Unduly Speculative)

15 Plaintiff's claim for damages, if any, is barred because such damages, if
16 they exist, are uncertain, vague, speculative and/or remote and therefore not
17 recoverable.

18 **SIXTH AFFIRMATIVE DEFENSE**

19 (No Causation)

20 Plaintiff is barred, in whole or in part, from recovering from Defendants
21 on any of their claims because there is no causal relationship between any injury
22 alleged to have been suffered, and any act of Defendants.
23
24
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1 **SEVENTH AFFIRMATIVE DEFENSE**

2 (Consistent with Law and Applicable Regulations)

3 The First Amended Complaint and each claim set forth therein are barred
4 because Defendants' conduct was consistent with all applicable laws and
5 regulations.

6 **EIGHTH AFFIRMATIVE DEFENSE**

7 (Fault of Others)

8 If Plaintiff suffered or sustained any loss, injury, damage or detriment, the
9 same was directly and proximately caused and contributed to by the breach,
10 conduct, acts, omissions, activities, carelessness, recklessness, negligence,
11 and/or intentional misconduct of others, and not by Defendants.

12
13 **NINTH AFFIRMATIVE DEFENSE**

14 (Good Faith)

15 Defendants assert as an affirmative defense that Plaintiff's claims are
16 barred because Defendants' conduct was at all times undertaken in good faith.

17
18 **TENTH AFFIRMATIVE DEFENSE**

19 (Mistake)

20 Any alleged acts or omissions of Defendants that give rise to Plaintiff's
21 claims are the result of innocent mistake.

22
23 **ELEVENTH AFFIRMATIVE DEFENSE**

24 (Failure to Mitigate)

25 Plaintiff's claims are barred, in whole or in part, by the failure to exercise
26 reasonable care to mitigate his alleged damages, if any.

27
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1 **TWELFTH AFFIRMATIVE DEFENSE**

2 (Statute of Limitations)

3 Plaintiffs' claims are barred, in whole or in part, by the operation of any
4 and all applicable statutes of limitation and requirements.

5 **THIRTEENTH AFFIRMATIVE DEFENSE**

6 (Business Practices Not Unlawful)

7 Plaintiff is barred from relief under RCW 19.86 because Defendants'
8 business practices are not unlawful. Defendants complied with all applicable
9 statutes and regulations.

10 **FOURTEENTH AFFIRMATIVE DEFENSE**

11 (Business Practices Not Unfair)

12 Plaintiff is barred from relief under RCW 19.86 because Defendants'
13 business practices are not unfair. The utility of Defendants' practices outweigh
14 any potential harm and/or the practices do not threaten an incipient violation of
15 consumer law or violate the policy or spirit of one of those laws in that its
16 effects are comparable to or the same as a violation of the law.

17 **FIFTEENTH AFFIRMATIVE DEFENSE**

18 (Business Practices Not Deceptive)

19 Plaintiff is barred from relief under RCW 19.86 because Defendants'
20 business practices are not deceptive. The practices are not likely to deceive, nor
21 was there actual reliance by Plaintiff.
22
23
24
25
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27

SIXTEENTH AFFIRMATIVE DEFENSE

(Reservation of Additional Defenses)

To the extent not set forth herein, Defendants reserve the right to assert additional defenses that become available or apparent during discovery and to amend their Answer accordingly.

COUNTERCLAIM

(Attorneys' Fees)

Pursuant to the Deed of Trust, Defendants are entitled to their attorneys' fees and costs incurred in defending this action.

WHEREFORE, Defendants pray:

1. That Plaintiff takes nothing by way of his Amended Complaint;
2. That Defendants be awarded their costs of suit incurred herein;
3. That Defendants be awarded their attorneys' fees;
4. That judgment be entered in favor of Defendants; and
5. That Defendants be granted such other relief as the Court deems just and proper.

1
2 DATED: December 7, 2012

3 LANE POWELL PC

4
5 By /s/John S. Devlin

6 John S. Devlin III, WSBA No. 23988

7 1420 Fifth Avenue, Suite 4100

8 Seattle, WA 98101

9 Telephone: 206-223-7000

Facsimile: 206-223-7107

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10 Attorneys for Federal National Mortgage
11 Association, ReconTrust Company, N.A.,
12 Mortgage Electronic Registration
13 Systems, Inc., and Bank of America,
14 N.A., as successor by merger to
15 Countrywide Bank, FSB and BAC Home
16 Loans Servicing, LP
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CERTIFICATE OF SERVICE

I hereby certify that on December 7, 2012, I caused to be served a copy of the foregoing **Defendants' Answer to Plaintiff's First Amended Complaint** on the following person(s) in the manner indicated below at the following address(es):


Plaintiff's Counsel:

John A. Long, WSBA #15119
 John Long Law PLLC
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☐ by CM/ECF
☒ by **Electronic Mail**
☐ by **Facsimile Transmission**
☒ by **First Class Mail**
☐ by **Hand Delivery**
☐ by **Overnight Delivery**

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Executed on this 7th day of December, 2012, at Seattle, Washington.


 Valerie M. Allen